

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JOSEPH K. CASON
Claimant

TOM'S AUTO SALES & SERVICE, INC.
Employer

Case No. 21IWDUI2091

APPEAL 21A-UI-07624

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 05/03/20
Employer: Appellant (2)**

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The employer filed an appeal from the March 5, 2021 (reference 04) unemployment insurance decision denying benefits. The parties were properly notified of the hearing. A telephone hearing was held on May 4, 2021. The employer, Tom's Auto Sales & Service, Inc. (Tom's), participated through its president, Tom Wong. The claimant did not participate in the hearing. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records including the fact-finding documents.

ISSUE:

Was the separation a layoff, discharge for misconduct, or voluntary quit without good cause?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Cason began full-time employment with Tom's as a lot attendant in the summer of 2020. In this position, Cason was required to "detail," or "put the finishing touches" on certain automobiles to ensure they were ready for display on the sales lot.

Tom's suffered a temporary loss in sales due to the pandemic. The drop in business forced Tom's to lay-off Cason effective January 2, 2021. Cason subsequently applied for unemployment compensation. A miscommunication occurred during the fact-finding process, however, and Cason's separation from employment was incorrectly labeled a voluntary quit.

Tom's filed the present appeal on March 16, 2021 in order to correct the record. Wong testified that he considered Cason to be a valuable employee and anticipates he will be able to re-hire Cason in the next 60 to 90 days.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

Iowa Code section 96.5(2)(a) provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:
 - a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

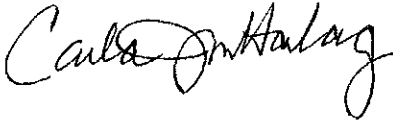
First it must be determined whether claimant quit or was discharged from employment. A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer and requires an intention to terminate the employment. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980). Where a claimant walked off the job without permission before the end of his shift saying he wanted a meeting with management the next day, the Iowa Court of Appeals ruled this was not a voluntary quit because the claimant's expressed desire to meet with management was evidence that he wished to maintain the employment relationship. Such cases must be analyzed as a discharge from employment. *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992).

Here, there is no evidence of a voluntary quit. Nor is there evidence of misconduct. Rather, the sole evidence of record shows that Tom's laid-off Cason effective January 2, 2021 due to a temporary reduction in business. Tom's is hopeful the business can re-hire Cason in the near future.

Although Cason did not participate in the hearing, the record is clear he did not voluntarily choose to discontinue his employment. The March 5, 2021 decision is reversed.

DECISION:

The March 5, 2021, (reference 04) unemployment insurance decision is reversed. Claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided he is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.

A handwritten signature in black ink, appearing to read "Carla J. Hamborg". The signature is fluid and cursive, with the first name "Carla" being the most prominent part.

Carla J. Hamborg
Administrative Law Judge

May 5, 2021
Decision Dated and Mailed

CJH/aa

cc: Joseph K. Cason, Claimant (by first class mail)
Tom's Auto Sales & Service, Inc., Employer (by first class mail)
Nicole Merrill, IWD (by email)
Joni Benson, IWD (by email)